

AMENDED IN SENATE MAY 3, 2011
AMENDED IN SENATE APRIL 11, 2011

SENATE BILL

No. 652

Introduced by Senator Steinberg
(Principal coauthor: Senator Gaines)
(Principal coauthors: Assembly Members Dickinson, and Pan)

February 18, 2011

An act to add Title 2.3 (commencing with Section 1812.40) to Part 4 of Division 3 of the Civil Code, relating to contracts, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 652, as amended, Steinberg. Professional sports teams: relocation agreements.

Existing law regulates contracts for particular transactions, including contracts for health studio services, ~~contracts for~~ the lease or rental of athletic facilities, and the sale of sport memorabilia.

This bill would prohibit a professional sports team that has previously entered into a financial agreement with a public entity from entering into a relocation agreement, as defined, unless it first provides to the public entity a bond, undertaking, or deposit in an amount adequate to ensure that its obligations under the financial agreement will be satisfied. The bill also would prohibit a professional sports team from entering into a relocation agreement if that team is in breach or default of any financial agreement, or if entry into a relocation agreement would cause a breach or default of any financial agreement, unless and until the breach or default is cured. The bill would provide that any agreement entered into in violation of these prohibitions is contrary to public policy and is unenforceable. The bill would authorize the home public entity

and home community, as defined, to seek, and would require the court to grant, an injunction to enjoin performance of any act under a relocation agreement that is made unenforceable by this bill. The bill would provide that performance under a relocation agreement entered into in violation of these prohibitions shall not be enjoined if all of the financial obligations the professional sports team owes to a home public entity and home community under a financial agreement are satisfied in full. The bill would require that any action or proceeding pursuant to these provisions be brought in a court of competent jurisdiction in the county in which the home public entity and home community are located. The bill would provide that these provisions apply to any relocation agreement entered on or after January 1, 2011.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. The Legislature finds and declares all of the
- 2 following:
- 3 (a) Professional sports teams provide a valuable source of
- 4 family-oriented entertainment.
- 5 (b) These teams often help create a strong sense of community
- 6 pride and community identity.
- 7 (c) Professional sports teams are big businesses. Modern teams
- 8 require an arena, team headquarters, team practice facilities, and
- 9 other infrastructure that cost tens of millions, even hundreds of
- 10 millions, of dollars to construct, improve, and maintain.
- 11 (d) Frequently, and increasingly, professional sports teams call
- 12 upon local governments to partner with them to share the costs of
- 13 the improvements and the new facilities they want.
- 14 (e) In California, local governments have entered into
- 15 multimillion dollar agreements and financing arrangements to
- 16 provide public resources that professional sports teams said they
- 17 needed to either come to the community or stay in the community.
- 18 (f) Those teams have agreed to repay and compensate the home
- 19 communities for committing public dollars in a variety of ways.
- 20 In some cases, teams have promised that they would pay off bonds,

1 buy the arena, or otherwise pay back particular government debt
2 if the team decides to move.

3 (g) However, the mere promise of a professional sports team to
4 pay back public money is not enough if the team disputes or delays
5 in paying or performing its obligations.

6 (h) The dollar amounts of the financial commitments made by
7 professional sports teams to California local governments are so
8 large that any uncertainty about whether or when the teams will
9 pay back public money and satisfy their financial obligations is
10 critical.

11 (i) If a professional sports team relocates to another community
12 and delays or challenges its obligation to repay a local government
13 tens of millions of dollars, the home community will have to either
14 make huge cuts in its budgets and services or try to borrow money
15 while it attempts to collect from the team. ~~California and its largest~~
16 ~~cities and counties already face unprecedented financial pressures~~
17 ~~that are forcing them to eliminate crucial services and facilities~~
18 ~~that they provide to residents. California and especially its larger~~
19 ~~cities and counties where professional sports teams usually locate~~
20 ~~already face unprecedented financial pressures that are forcing~~
21 ~~them to eliminate crucial services and facilities that they provide~~
22 ~~to residents and that serve their surrounding regions.~~ Police and
23 fire stations and jobs are being cut. Parks are being sold or closed.
24 Streets are going without needed maintenance. A community with
25 a professional sports team cannot afford to make additional cuts
26 if the team decides to relocate without first paying its financial
27 obligations to the community.

28 (j) If a professional sports team relocates and challenges or
29 delays the repayment of its financial obligations, the home
30 community may also be unable to borrow money because financial
31 markets may respond to the uncertainty of the team's repayment
32 by increasing interest rates the community pays to borrow money,
33 or even refusing to lend money altogether.

34 ~~(k) Large cities and counties and the regions they serve cannot~~
35 ~~absorb the additional financial pressure and cuts that would result~~
36 ~~from a professional sports team relocating to another community~~
37 ~~before first paying off its financial obligations to the home~~
38 ~~community. Under current law, there are no mechanisms in place~~
39 ~~to ensure that a relocating team pays all of its financial obligations~~

~~before leaving, causing large cities and counties to suffer the
uncertainties created by the team's departure.~~

(k) Larger cities and counties and the regions that they serve cannot absorb the additional substantial financial pressure and cuts to essential services that would result from a professional sports team relocating to another community before first paying off its financial obligations to the home community. Under current law, there are no mechanisms in place to ensure that a relocating team pays all of its financial obligations before leaving, causing larger cities and counties and the regions they serve to suffer the economic uncertainties created by the team's relocation.

(l) This act recognizes that, under the commerce clause of the United States Constitution, state law may not indefinitely prohibit a professional sports team from relocating either within California or to another state. This act is not intended to bar or in any way restrain a team's ability to relocate consistent with its applicable league rules or bylaws. The sole intent and purpose of this act is to require that, before a professional sports team relocates, it must satisfy its financial obligations to its home public entities and home community.

(m) This act is an exercise of the sovereign right of the state to protect the lives, health, morals, comfort, and general welfare of the people of the state, and is paramount to any rights under contracts between individuals. The economic interests of the state justify the exercise of its police power to protect the fiscal integrity of public entities and home communities whose ability to provide essential services to their residents may be harmed by a professional sports team's relocation without payment of its financial obligations to the home public entities and home communities.

(n) This act is intended to support professional sports teams and leagues and encourage local governments to partner with professional sports teams and leagues by giving local governments greater certainty that the public money they invest to attract and retain teams will be repaid.

SEC. 2. Title 2.3 (commencing with Section 1812.40) is added to Part 4 of Division 3 of the Civil Code, to read:

TITLE 2.3. CONTRACTS FOR RELOCATION OF
PROFESSIONAL SPORTS TEAMS

1812.40. The following definitions shall apply for purposes of this title:

(a) “Breach or default” means any present or anticipated failure to perform an obligation of a financial agreement between a professional sports team and a public or private entity, including, but not limited to, any of the following:

(1) Any act that is defined as a breach or default under the terms of the financial agreement.

(2) Any failure to make a required payment or perform a specific material act required under the terms of the financial agreement.

(3) Any act that, under the terms of the financial agreement, would trigger an obligation to accelerate or immediately tender payment or performance of an obligation, a requirement to pay liquidated damages, a requirement to pay penalties, or similar advanced payment obligations.

(4) Any act rendering it impossible to perform a material obligation under the terms of the financial agreement.

(5) Any act amounting to a repudiation of a material term of the financial agreement.

(6) Any act of waste or destruction of property owned by the public entity or property in which the public entity has a security interest under the terms of the financial agreement.

(b) “Current location” or “home community” means the city, county, or city and county in the state in which a professional sports team plays at least 50 percent of the regular season and playoff games that are designated or considered by the professional sports team’s governing professional sports league as “home games” or the equivalent.

(c) “Financial agreement” means any binding legal obligation between a public entity and a professional sports team by which public moneys, public property, public assets, or any interests therein, are transferred, loaned, expended, conveyed, or guaranteed for the use of a professional sports team, including, but not limited to, any of the following:

(1) A loan from the public entity to the professional sports team.

(2) A commitment of the public entity to issue, or to cause the issuance of, debt obligations, whether in the form of notes, bonds,

1 certificates of participation, or like instruments, the proceeds for
2 the sale of which will be applied to the benefit of the professional
3 sports team.

4 (3) Authorization for the professional sports team to utilize
5 public property or facilities in connection with its professional
6 sports activities.

7 (4) A guarantee by the public entity or the professional sports
8 team of any loan or other debt obligations, the proceeds of which
9 are, or will, be applied for the benefit of the professional sports
10 team.

11 (5) A lease or sale of, the financing or making of improvements
12 to, or the management of, any public property or facilities that are
13 proposed to be used, or that are being used, by the professional
14 sports team in connection with its professional sports activities.

15 (6) Purchase of the professional sports team by the public entity.

16 (7) Revenue sharing.

17 (8) Any other provision or arrangement of a like nature by which
18 the public entity provides financial assistance or other economic
19 incentives to encourage or induce a professional sports team to
20 either bring its professional sports activities to the home community
21 or, if already located within the home community, to remain in
22 the home community.

23 (d) “Home public entity” means any public entity that has
24 entered into a financial agreement with a professional sports team
25 playing its regular season and playoff home games in the home
26 community.

27 (e) “New community” means any city, county, or city and county
28 in the state other than the current location or home community.

29 (f) “Professional sports league” means an association or entity
30 that acts as the governing body for a set of regularly scheduled
31 professional athletic competitions in a particular team sport and
32 is responsible for defining competition rules, setting schedules,
33 and approving the relocation of teams. “Professional sports league”
34 includes, but is not limited to, the entities commonly known as the
35 Major League Baseball, Major League Soccer, the National
36 Basketball Association, the National Football League, and the
37 National Hockey League.

38 (g) “Professional sports team” means a person, corporation,
39 partnership, limited partnership, limited liability partnership, joint
40 venture, or other business entity that operates or owns a substantial

1 or controlling interest in a team organized to participate in
2 professional team sports as part of a professional sports league,
3 and that conducts over 50 percent of its home regular season and
4 playoff games or competitions in an indoor or outdoor arena or
5 stadium with permanent seating capable of accommodating more
6 than 9,000 persons attending the team's games or competitions.
7 "Professional sports team" shall not include a minor league sports
8 team.

9 (h) "Public entity" means a city, county, city and county, joint
10 exercise of powers authority, special district, redevelopment
11 agency, or other board, district, or agency exercising governmental
12 powers in this state.

13 (i) "Relocation agreement" or "agreement to relocate" means
14 any binding legal obligation, entered into on or after January 1,
15 2011, by which a professional sports team, in accordance with the
16 rules, constitution, or bylaws of its governing professional sports
17 league, agrees to, obligates, or conditions the exchange of
18 consideration upon the professional sports team's relocation from
19 its home community to a new community. Relocation agreements
20 or agreements to relocate include, but are not limited to, agreements
21 that pertain to the lease or use of an arena or stadium, practice
22 facilities, and related parking; the pledge, sharing, or allocation of
23 revenues from, or surcharges on, tickets, food, team merchandise,
24 concessions, parking, television, radio, cable or broadcast or
25 podcast rights; and the repayment of public or private obligations
26 necessary for facilities improvements for the benefit of the
27 professional sports team.

28 1812.41. (a) A professional sports team that has previously
29 entered into a financial agreement with a home public entity shall
30 not enter into a relocation agreement unless it first provides to the
31 home public entity a bond, undertaking, or deposit meeting the
32 requirements of Chapter 2 (commencing with Section 995.010) of
33 Title 14 of Part 2 of the Code of Civil Procedure in an amount
34 adequate to ensure that all of its obligations under the financial
35 agreement will be satisfied.

36 (b) A professional sports team shall not enter into a relocation
37 agreement if that team is in breach or default of any financial
38 agreement, or if entry into a relocation agreement would cause a
39 breach or default of any financial agreement, unless and until the
40 breach or default is cured.

1 1812.42. (a) A relocation agreement entered into in violation
2 of Section 1812.41 is contrary to public policy and is
3 unenforceable. The home public entity or home community may
4 seek, and, notwithstanding any other provision of law, the court
5 shall grant, an injunction to enjoin performance of any act under
6 a relocation agreement that is unenforceable under this subdivision.

7 (b) Performance under a relocation agreement entered into in
8 violation of Section 1812.41 shall not be enjoined, or continue to
9 be enjoined, pursuant to subdivision (a) if all of the financial
10 obligations the professional sports team owes to a home public
11 entity and home community under a financial agreement are
12 satisfied in full. The financial obligations under a financial
13 agreement are not satisfied in full for purposes of this subdivision
14 merely by providing the bond, undertaking, or deposit pursuant to
15 subdivision (a) of Section 1812.41.

16 (c) Any action or proceeding pursuant to this section shall be
17 brought in a court of competent jurisdiction in the county in which
18 the home public entity and home community are located.

19 1812.43. The remedies provided by this title are cumulative
20 and not exclusive of any other remedy or cause of action provided
21 by law or equity, including, but not limited to, any joint and several
22 liability that may arise in contract or tort.

23 SEC. 3. The provisions of this act are severable. If any
24 provision of this act or its application is held invalid, that invalidity
25 shall not affect other provisions or applications that can be given
26 effect without the invalid provision or application.

27 SEC. 4. This act is an urgency statute necessary for the
28 immediate preservation of the public peace, health, or safety within
29 the meaning of Article IV of the Constitution and shall go into
30 immediate effect. The facts constituting the necessity are:

31 In order to reduce the uncertainty regarding the substantial
32 financial obligations owed to local governmental entities by
33 professional sports teams, and the potential impact on critical
34 government services funded by public moneys in the event those
35 financial obligations are breached, it is necessary that this act take
36 effect immediately.